IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12114 of 2004

Between:

Erigi Lakshmaiah, S/o Venkaiah, R/o Yacharam Village, Anamula Mandal,

Nalgonda District, and 75 others shown in the annexure

... PETITIONER

AND

1 The Commissioner of Fisheries, Mastya Bhavan, Sanathnagar, Hyderabad
2 The Regional Dy.Director of Fisheries, Nalgonda, Nalgonda District
3 The Assistant Director of Fisheries, Nalgonda, Nalgonda District
4 Fishermen Cooperative Society, rep.by its President, G.Venkaiah,
R/o Yacharam Village, Anamula Mandal, Nalgonda District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court be pleased to issue Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not allowing us to catch the fist and other functions as members of FCS, Yacharam, Anumula Mandal, Nalgonda District as bad, arbitrary, contrary to the provisions of A.P.C.S.Act 1964 and its Bye-Laws and consequently direct the respondents to allows us as members of FCS, Yacharam, Anumula Mandal, Nalgonda District

Counsel for the Petitioner: MS.M.VIDYAVATHI

Counsel for the Respondents: GP FOR FISHERIES

The Court made the following order:

ORDER:

Petitioner, who is one of the 76 persons admitted as members of the fourth respondent society vide resolution of the society dated 20.11.2003, filed this writ petition seeking a Writ of Mandamus to declare the action of the respondents 1 to 3 in not allowing them to catch the fish and perform other functions as members of the Fishermen Cooperative Society, Yachavaram Village, Anamula Mandal, Nalgonda District as arbitrary and contrary to the provisions of Andhra Pradesh Cooperative Societies Act, 1964 and its Bye-Laws and consequently direct the respondents to allow them as members of the said society.

It is stated that the fourth respondent society passed an unanimous resolution on 20.11.2003 admitting as many as 76 persons as its members in view of their eligibility as fishermen by profession, as they are skilled in catching fish and experienced in netting, keeping in view the extent of the tank and the Water Spread area, there is a viability to admit all of them. Therefore, the official respondents cannot object their continuation as members of the said society.

Counter has been filed by the Deputy Director of Fisheries, Nalgonda District stating that originally the society was registered on 18.09.2000 with 37 members in respect of the Peddacheruvu of the Yacharam village and the Water Spread Area of the tank is about 97 Hectares. As per the Water Spread Area the tank is limited for 97 members. But the fourth respondent society admitted 76 new members in addition to the existing 37 members

vide resolution of the General Body dated 20.11.2003. It is submitted that the admission exceeds the norms fixed by the Department i.e., one member per one hectare. Therefore, the Department rejected their admission as new members of the society vide proceedings 09.07.2004, as per the head office instructions dated 16.10.1998 wherein it has been stipulated that before admission of new members skill test has to be conducted to the proposed members regarding their genuineness whether they know fishing or not and whether they are having knowledge in fabrication of nets and their residential address of living etc., in order to eliminate bogus membership from the society. The way in which the society admitted at a time 76 members creates a doubt whether the members admitted are genuine or not. If they are all genuine, the President of the society ought to have followed the procedure. Therefore, the department has entertained a doubt and rejected their admission.

I am of the opinion that merely because the official respondents entertained a doubt they cannot reject the admission of 76 members unless the skill test is conducted regarding their genuineness. The respondents have to verify the genuineness of the new members.

Accordingly, the rejection of the admission of 76 members vide proceedings of the respondents dated 09.07.2004 is set aside and the respondents 1 to 3 are directed to conduct a skill test, to verify whether the 76 members know the skill of fishing, have knowledge in fabrication of nets and their residential addresses and eliminate the bogus members whoever fails in the skill test and does not belong to the village in question, within four weeks from the date of receipt of this order.

The writ petition is accordingly disposed of with the above observation. No costs.

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V. ESWARAIAH, J

April 12, 2005

Dsk

To

1 The Commissioner of Fisheries, Mastya Bhavan, Sanathnagar, Hyderabad.
2 The Regional Dy.Director of Fisheries, Nalgonda, Nalgonda District.
3 The Assistant Director of Fisheries, Nalgonda, Nalgonda District.

4 Two CCs to GP For Fisheries, High Court Buildings, Hyderabad (OUT)

Two CD Copies.